IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2076 of 2003
with
CIVIL APPLICATION NO.3070 OF 2003

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SAJEDA ABDUL MANNAN BHAGAT

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 2076 of 2003
MR MUSEBHAI R MOLAVI for Petitioner No. 1
Ms.Patel,AGP for Respondent No.1, 2-3
Mr.N.J.Shah with Mr.D.N.Patel for Respondent No. 4

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 17/07/2003

ORAL JUDGEMENT

With the consent of parties, pursuant to the order, dated 11.7.03 matter is taken up for final hearing.

2. This court on 11.7.03 passed the following order:

"Having heard the learned advocate for the petitioner, Ms.Patel, Ld.AGP and Mr.N.J.Shah with Mr.D.N.Patel for respondent-authority it appears that the police authority has not recommended for issuance of passport on the ground that the father and brother of the petitioner are involved in criminal offences. In my primafacie view such ground can hardly be said to be valid and proper ground for denying passport to the petitioner or any other citizen. In the affidavit in reply filed by Mr.Bharwad, Sr.PSI, Sami PS there is no whisper regarding involvement of the petitioner in any offence. In my view such ground is absolutely arbitrary, irrational and capricious. However, Ld.AGP submits that she would like to verify again as to whether the petitioner himself is involved in any criminal offence or not.

2. Put up for passing final order on 17.7.03.

3. The PI, Sami PS shall remain personally present with the record as to whether the petitioner himself is involved in any criminal offence or not.

4. It is clarified that if no material is brought to the notice of this court regarding the involvement of the petitioner in any criminal offence, this court would be constrained to proceed with passing the final order on that basis."

3. Today, under the instructions from Mr.Kirtikumar Jaiswal, ASI, Sami PS, Ld.AGP Ms.Patel states that so far the petitioner is concerned there is no criminal case pending or she is not involved in any criminal offence.

4. In view of the above, I find it proper to record that the police authorities while considering the matter for forwarding the remarks to the passport authority is supposed to take into consideration the involvement of the petitioner and has to verify as to whether any criminal case is pending against the person concerned who has applied for passport. The ground of not issuing clear police report since the brother and the father of the petitioner are involved in criminal offence, in my

view, is absolutely, arbitrary and unreasonable and can not be maintained. I am not expressing any further opinion on the said aspects except observing that such an approach on the part of police authorities deserves to be deprecated.

5. Since now it has also come on record that as today the petitioner is not involved in any criminal offence nor there is any thing against the petitioner for not giving clear police report, the respondent No.3-Police Inspector, Sami PS shall forward report to the Regional Passport Officer-respondent No.4 herein within a period of one week from today and upon receipt of the said police report the respondent No.4 shall take steps in accordance with law as early as possible for issuing passport to the petitioner.

6. Rule is made absolute accordingly. Considering the facts and circumstances of the case, there shall no order as to costs.

7. In view of the order passed in main matter, no further order in CA No.307003. CA stands disposed of accordingly.

17.7.03 (JAYANT PATEL,J)